

Message Text

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ACTION L-02

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SUBJ LOS:STRAITS

1. GROUP OF FIVE MET 5 JULY TO DISCUSS NEW UK DRAFT ARTICLES ON STRAITS CHAIRED BY US (STEVENSON). TEXT OF DRAFT IS CONFIDENTIAL, AND APPEARS AT END OF CABLE.

2. UK (DUDGEON) EXPLAINED DRAFT, EMPHASIZING THAT IT HAD NOT YET BEEN APPROVED BY MINISTERS. HE SAID IT TOOK INTO ACCOUNT COMMENTS AT LONDON GROUP OF FIVE MEETING, STATING THAT DRAFT STILL HAD MAJOR PROBLEMS.

3. US (MOORE) DETAILED OUR PRELIMINARY DIFFICULTIES, INCLUDING:

(A) WE WERE NOT YET SURE OF SCOPE OF COVERAGE OF "MULTINATIONAL STRAITS." (DUDGEON SUGGESTED TECHNICAL CONSULTATIONS.)

(B) CREATION OF 2 CATEGORIES OF STRAITS USED FOR INTERNATIONAL NAVIGATION (I.E. "MULTINATIONAL" AND NATIONAL) COULD LEAD TO GREAT DEAL OF CONFUSION, PARTICULARLY IN VIEW INNOCENT PASSAGE PROPOSALS OF OTHERS.

(C) ART. 3 TOO DETAILED.

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(D) ART. 4 DANGEROUS UNLESS THERE ARE RESTRICTIONS ON COASTAL

STATE.

4. ALLUDING TO AEGEAN SEA, USSR (KOVALEV) SAID CATEGORY OF MULTINATIONAL STRAITS "UNACCEPTABLE". HE LATER SAID IT WAS "ABSOLUTELY IMPOSSIBLE", AND IF HIS COLLEAGUES INSIST ON CEPT, USSR WOULD HAVE TO GO ITS OWN WAY. HE WAS MORE FLEXIBLE ON CHANGES OF WORDING, SUCH AS FINDING DIFFERENT TERM TO COVER FREE TRANSIT CONCEPT.

5. UK (DUDGEON) NOTING FACT UK WOULD PREFER BROADER SCOPE AND WORDING OF US AND SOVIET ARTICLE, EMPHASIZED NECESSITY TO IMPROVE NEGOTIABILITY OF ARTICLE. NO UK INTEREST WOULD BE ADVERSELY AFFECTED BY SCOPE OF MULTINATIONAL STRAITS DEFINITION.

6. JAPAN (OGISO) FOUND MULTINATIONAL STRAIT CONCEPT AND AVOIDANCE OF TERM "FREE TRANSIT" ATTRACTIVE, BUT FELT NEW TERM "UNINTERRUPTED PASSAGE" HAD NO ESTABLISHED LEGAL MEANING AND THUS MIGHT REQUIRE DEFINITION.

7. FRANCE (MARTIN-SANE) RESERVED JUDGMENT PENDING STUDY OF SCOPE OF MULTINATIONAL STRAITS DEFINITION.

8. UK (DUDGEON) EMPHASIZED TACTICAL BENEFIT OF AVOIDING TERM "INTERNATIONAL" STRAIT, WHICH IS NOT IN ANY EVEN ACCURATE. HE ALSO NOTED THAT REFERENCE TO ARCHIPELAGOES WAS DESIGNED TO ENSURE SOMETHING BETTER THAN INNOCENT PASSAGE.

9. THERE WAS SOME EXCHANGE OF VIEWS ON TERM "UNINTERRUPTED PASSAGE" AND OTHER TERMS SUCH AS "UNIMPEDED PASSAGE" WERE INCONCLUSIVELY DISCUSSED. USSR (BARABOLIA) INDICATED UNINTERRUPTED RIGHT WAS ONLY RIGHT TO CONTINUE ONCE PASSAGE OF STRAIT BEGUN, BUT WOULD NOT PRECLUDE TOTAL EXCLUSION FROM STRAIT.

10. US (FRENCH) QUESTIONED PROVISION ON COMMUNICATION WITH AIRCRAFT. UK REFERRED QUESTION TO USSR, AS IT HAD TAKEN LANGUAGE FROM USSR DRAFT. USSR (BARABOLIA)
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INDICATED THAT GREATER DIFFICULTY OF PRECISE NAVIGATION BY AIRCRAFT MADE NECESSARY MEANS FOR COMMUNICATION WITH AIRCRAFT WHEN THEY ARE IN THE AREA; THIS WAS NOT ADVANCE NOTIFICATION.

11. US (OXMAN) QUESTIONED WHETHER SHIPS EXEMPT FROM INTERNATIONAL POLLUTION STANDARDS IN POLLUTION SECTION OF LOS TREATY WOULD ALSO BE EXEMPT IN STRAITS UNDER ART. 3B.

UK (DUDGEON), AFTER CONSULTATION, REPLIED AFFIRMATIVELY.

12. JAPAN AND USSR QUESTIONED PARA 4 SPECIFICATION OF COASTAL STATE ENFORCEMENT RIGHTS, DESPITE SOVEREIGN IMMUNITY EXCEPTION. UK (DUDGEON) REPLIED THAT HE THOUGHT THESE RIGHTS CLEARLY ESTABLISHED IN TERRITORIAL SEA, AND THAT HE TOOK IDEA FROM US STRAITS SPEECH.

13. US (STEVENSON) ASKED HOW SOVIETS WERE DOING IN ATTRACTING SUPPORT FOR THEIR ARTICLE. USSR (KOVALEV) WAS NONRESPONSIVE, BUT ASKED IF US COULD ACCEPT DEFINITION OF STRAITS WHICH INCLUDES ONLY STRAITS CONNECTING 2 PARTS OF HIGH SEAS. STEVENSON ASKED IF THIS HAD ENHANCED ACCEPTABILITY. KOVALEV SAID USSR WOULD LIKE FREE TRANSIT IN ALL INTERNATIONAL STRAITS, BUT THIS WAS IMPOSSIBLE, AND WE MUST EXCLUDE SOME STRAITS IN ORDER TO RETAIN RIGHTS IN THE IMPORTANT ONES. ACCORDING TO HIS INFORMATION, APPLICATION ONLY TO STRAITS CONNECTING 2 PARTS OF HIGH SEAS "ABSOLUTELY NECESSARY," BUT DID NOT REFER EXPLICITLY TO STRAIT OF TIRAN. ELABORATING ON GENERAL QUESTION, HE FELT OTHER CHANGES WOULD BE NECESSARY, E.G. POSSIBLY SWITCHING TO TERM SUCH AS "UNIMPEDED PASSAGE", FINDING SOME MEANS TO DEAL WITH COASTAL STATE POSITION ON SECURITY, ETC.

14. ON TACTICS, KOVALEV DID NOT FEEL TIME WAS RIPE FOR FIVE TO COMBINE EFFORTS ON SINGLE DRAFT. BETTER FOR US AND USSR TO MAINTAIN PROPOSALS AS THEY STAND. FRANCE (MARTIN-SANE) AGREED, BUT SAID GROUP OF FIVE SHOULD HAVE SOME KIND OF COMMON DRAFT IN THEIR POCKETS WHICH COULD BE USED LATER, AND MUST NOT CONFUSE TACTICS WITH NECESSITY TO PROCEED NOW WITH OUR WORK ON PREPARING A COMMON POSITION. BASSIN

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